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Philadelphia Immigration Attorneys Condemn Administration's Assault on Immigrants and Due Process

Philadelphia, PA - The Trump's Administration's assault on immigrants and the independence of our court system continued this week in an immigration courtroom in Philadelphia, PA. In an unprecedented move, the Executive Office of Immigration Review (EOIR), which oversees our US immigration courts, had removed a sitting immigration judge from a matter and replaced him with an Assistant Chief Immigration Judge (ACIJ) without explanation to rule on the case of Castro-Tum. The ACIJ ordered Castro-Tum removed in absentia.

Immigration attorney and activist Matthew Archambeault, who appeared as a Friend of the Court in this matter, said "This procedural maneuver was calculated to send a message from the Sessions Justice Department – fall in line with our agenda, or you won't be permitted to do your job. This case was chosen by Attorney General Sessions as a way to force immigration judges generally to no longer use their power of 'administrative closure' as an efficient and effective docketing tool and method for reducing the immense backlog of immigration court cases. This is simply the latest step in the concerted effort to further weaken the independence of immigration judges. Congress must establish a fully independent judiciary for the immigration court system to ensure immigrants have a chance to present their cases to a fair and impartial judge, one unbowed by the pressures imposed by the attorney general and this administration.

"We should all be concerned that the Department of Justice, headed by AG Sessions, removes judges from matters for no cause other than they do not feel they are adequately implementing their political agenda. Judge Morley is an honorable and fair jurist, who was conducting this matter in a professional manner. AG Sessions continued the standard operating procedure of this administration of picking on the weak and defenseless, like Castro-Tum. AG Sessions picked the case of an unaccompanied minor, who was unrepresented, in order to beat up on immigrants. We, as a chapter of immigration attorneys, will not let that go unchallenged."

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Further background on the case:

Castro-Tum is a Guatemalan young man who entered the United States as an unaccompanied minor. Released to a relative in rural Pennsylvania with an order to appear before the immigration court in Philadelphia, his Notice to Appear contained no hearing date or time. The Office of Refugee and Resettlement provided the address to the Department of Homeland Security (DHS). Castro-Tum failed to appear for several hearings. A Philadelphia Immigration Judge, expressing concern based on the evidence regarding the validity of the address provided to DHS and the court, refused to order removal and instead continued the case for DHS to better verify Castro-Tum's address. DHS failed to make any efforts to verify the address and the immigration judge administratively closed the matter, offering DHS another opportunity to better verify the address of Castro-Tum.

Using a rarely used tactic, the Attorney General chose to certify this case to himself and issued a precedential decision ending the ability of Immigration Judges to unilaterally administratively close cases, upending precedent and depriving the judges of an important tool of docket management, undercutting their independence. The matter was then sent back to the Philadelphia Immigration Court on May 31, 2018, 14 days after the decision.

Matthew J. Archambeault appeared in immigration court; Castro-Tum again failed to appear. As a Friend of the Court, Archambeault advised the court that 14 days was inadequate time for notice for Castro-Tum to appear. The immigration judge continued this matter until July 26, 2018 due to the short time period for notice to Castro-Tum and for Archambeault to submit a Friend of the Court brief on the pertinent issues.

Shortly after issuing the continuance, the immigration judge, who had been assigned the case and who had conducted all of the proceedings, was replaced with an Assistant Chief Immigration Judge (supervisory judge) from EOIR Headquarters. Attorney Matthew J. Archambeault filed a Friend of the Court brief with the immigration court on behalf of the Philadelphia and Pittsburgh Chapters of the American Immigration Lawyers Association. Attorney Archambeault appeared at the July 26, 2018, hearing before the ACIJ. The ACIJ acknowledged the brief and Mr. Archambeault's presence as a Friend of the Court but ordered Castro-Tum removed in absentia, as he again failed to appear.

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